

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

MICHELLE MARINO,

Plaintiff,

v.

US BANK, et al.,

Defendants.

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No. 1:08-CV-26 CAS

**ORDER**

This matter is before the Court on defendant First Resolution Investment Corporation's motion to dismiss and to enforce settlement agreement. In support of its motion, First Resolution has presented matters outside the pleadings.

Rule 12(d) of the Federal Rules of Civil Procedure states:

If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

In this case, the Court finds it necessary to consider material outside the scope of the pleadings in determining the issues raised in First Resolution Investment Corporation's motion. As a result, plaintiff shall have an opportunity to respond and present any pertinent material she may have. Plaintiff will have until March 3, 2009, to file such a response.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff shall have until **March 3, 2009**, to respond to defendant First Resolution Investment Corporation's motion to dismiss and to enforce settlement

agreement. Any such response must comply with the Federal Rules of Civil Procedure, including Rule 56.

A handwritten signature in cursive script, reading "Charles A. Shaw", written in black ink.

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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 18th day of February, 2009.